THE HIGH COURT OF UTTARANCHAL
AT NAINITAL.

Defective Civil Revision No. 11 of 2006

Shekhar Chandra Joshi
S/o Sri Gopal Datt Joshi
R/o Chaterji House
Hanumangarh, Tallital
District Nainital ... Revisionist.

Versus

Sankat Mochan Hanuman Mandir Trust Hanumangar, Tallital
District Nainital through its Secretary
Sri Madan Lal Sah
S/o Sri Banshi Lal Sah
R/o Durga Niwas
Ayarpata, Nainital ..... Respondent.

Hon'ble B.C. Kandpal, J.

This revision has been preferred by the revisionist – Shekhar Chandra Joshi under Section 25 of Provincial Small Cause Courts Act against the order dated 15.04.2006 passed by, Judge, Small Cause Court/District Judge, Nainital in S.C.C. No. 27 of 2001, Sankat Mochan Hanuman Mandir Trust Vs Shekar Chandra Joshi.

2. Heard Sri Sudhir Kumar, learned counsel for the revisionist and perused the impugned order dated 15.04.2006 passed by the trial court.

3. Learned counsel for the revisionist has submitted before the Court that the court below while passing the impugned order dated 15.04.2006 has not followed the provisions of Order 7 Rule 10 and 10A of the C.P.C.

4. As per the submission advanced by the learned counsel for the revisionist, the court below instead of

transferring the case to the concerned court should have returned the plaint to the plaintiff/respondent for presenting the same before the court of Competent Jurisdiction.

5. After having considered the arguments advanced by the learned counsel for the revisionist, I am of the view that the court below while passing the impugned order has not strictly followed the provision of Order 7 Rule 10 and 10A of the C.P.C.

6. Accordingly, the impugned order dated 15.04.2006 passed by the trial court in S.C.C. No. 27 of 2001 is hereby set aside and the learned Trial Judge is directed to decide the matter keeping in view the provision of order 7 Rule 10 and 10A of the C.P.C. afresh.

7. With the aforesaid observations, the revision is allowed and the trial judge is directed to decide the matter expeditiously in accordance with law.

(B.C. Kandpal, J.)

15.11.2006.
Aswal